

ASSEMBLY BILL

No. 937

Introduced by Assembly Member Smyth

February 26, 2009

An act to add Section 12314 to the Penal Code, relating to destructive devices.

LEGISLATIVE COUNSEL'S DIGEST

AB 937, as introduced, Smyth. Destructive devices: registration.

Existing law requires that violators of specified arson laws register their names, addresses, and other specified information with the police or sheriff in the jurisdiction where they are residing or are located, within specified time limits, and with certain conditions. Additionally, these violators must register with the campus police chief of any public college or university where they reside or are located. Failure to register is a misdemeanor. Under existing law, certain administrative duties are imposed on county probation departments and the Department of Justice relating to the collection and dissemination of information from registrants.

Existing law defines various crimes relating to the possession and use of destructive devices.

This bill would impose registration requirements parallel to those applicable in arson cases on violators of certain laws regulating the possession and use of destructive devices, as specified. Parallel obligations would be imposed on public agencies relating to the collection and dissemination of information from registrants.

By creating a new crime and requiring county officers to undertake additional duties, this bill would impose state-mandated local programs.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12314 is added to the Penal Code, to
2 read:

3 12314. (a) As used in this section:

4 (1) "Destructive device violation" means a violation of Section
5 12303, 12303.1, 12303.2, 12303.3, 12303.6, 12308, 12309, 12310,
6 or 12312.

7 (2) For a person with no residence, "residing" means "located."

8 (b) (1) Every person described in paragraphs (2) and (3) who
9 is residing in California for 14 or more days shall, within 14 days
10 of entry, register as a convicted destructive device violator, and
11 shall reregister upon any change of residence or location within
12 the state, as provided in this section. Each of these persons shall
13 either register with the chief of police of the city where the person
14 is residing, or, if residing in an unincorporated area or city that has
15 no police department, register with the sheriff of the county where
16 the person is residing. In addition, each of these persons shall
17 register with the chief of police of a campus of the University of
18 California, the California State University, or community college
19 where the person is residing upon the campus or any of its facilities.

20 (2) Any person who, on or after January 1, 2010, is convicted
21 in any court in this state of a destructive device violation shall be
22 required to register, in accordance with the provisions of this
23 section, for the rest of his or her life.

24 (3) Any person who has been adjudicated a ward of the juvenile
25 court pursuant to Section 602 of the Welfare and Institutions Code,
26 who has had a destructive device violation sustained in a petition

1 pursuant to Section 602 of the Welfare and Institutions Code, and
2 who is discharged or paroled from the Division of Juvenile Justice,
3 shall be required to register, in accordance with the provisions of
4 this section, until that person attains the age of 25 years, or until
5 the person has his or her records sealed pursuant to Section 781
6 of the Welfare and Institutions Code, whichever comes first.

7 (c) Any person required to register pursuant to this section who
8 is discharged or paroled from a jail, prison, school, road camp, or
9 other penal institution, or from the Department of Corrections and
10 Rehabilitation, Division of Juvenile Justice, where he or she was
11 confined because of a destructive device violation, shall, prior to
12 the discharge, parole, or release, be informed of his or her duty to
13 register under this section by the official in charge of the place of
14 confinement. The official shall require the person to read and sign
15 the form as may be required by the Department of Justice, stating
16 that the duty of the person to register under this section has been
17 explained to him or her. The official in charge of the place of
18 confinement shall obtain the address where the person expects to
19 reside upon his or her discharge, parole, or release and shall report
20 the address to the Department of Justice. The official in charge of
21 the place of confinement shall give one copy of the form to the
22 person, and shall, not later than 45 days prior to the scheduled
23 release of the person, send one copy to the appropriate law
24 enforcement agency having local jurisdiction where the person
25 expects to reside upon his or her discharge, parole, or release; one
26 copy to the prosecuting agency that prosecuted the person; one
27 copy to the chief fire official of a legally organized fire department
28 or fire protection district having local jurisdiction where the person
29 expects to reside upon his or her discharge, parole, or release; and
30 one copy to the Department of Justice. The official in charge of
31 the place of confinement shall retain one copy. All forms shall be
32 transmitted in time so as to be received by the local law
33 enforcement agency and prosecuting agency 30 days prior to the
34 discharge, parole, or release of the person.

35 (d) All records relating specifically to the registration in the
36 custody of the Department of Justice, law enforcement agencies,
37 and other agencies or public officials shall be destroyed when the
38 person required to register under this subdivision for offenses
39 adjudicated by a juvenile court attains the age of 25 years or has
40 his or her records sealed under the procedures set forth in Section

1 781 of the Welfare and Institutions Code, whichever event occurs
2 first. This subdivision shall not be construed to require the
3 destruction of other criminal offender or juvenile records relating
4 to the case that are maintained by the Department of Justice, law
5 enforcement agencies, the juvenile court, or other agencies and
6 public officials unless ordered by the court under Section 781 of
7 the Welfare and Institutions Code.

8 (e) Any person who is required to register pursuant to this
9 section who is released on probation or discharged upon payment
10 of a fine shall, prior to the release or discharge, be informed of his
11 or her duty to register under this section by the probation
12 department of the county in which he or she has been convicted,
13 and the probation officer shall require the person to read and sign
14 the form as may be required by the Department of Justice, stating
15 that the duty of the person to register under this section has been
16 explained to him or her. The probation officer shall obtain the
17 address where the person expects to reside upon his or her release
18 or discharge and shall report within three days the address to the
19 Department of Justice. The probation officer shall give one copy
20 of the form to the person, and shall send one copy to the appropriate
21 law enforcement agency having local jurisdiction where the person
22 expects to reside upon his or her discharge or release, one copy to
23 the prosecuting agency that prosecuted the person, one copy to the
24 chief fire official of a legally organized fire department or fire
25 protection district having local jurisdiction where the person
26 expects to reside upon his or her discharge or release, and one copy
27 to the Department of Justice. The probation officer shall also retain
28 one copy.

29 (f) The registration shall consist of (1) a statement in writing
30 signed by the person, giving the information as may be required
31 by the Department of Justice, and (2) the fingerprints and
32 photograph of the person. Within three days thereafter, the
33 registering law enforcement agency shall electronically forward
34 the statement, fingerprints, and photograph to the Department of
35 Justice.

36 (g) If any person required to register by this section changes his
37 or her residence address, he or she shall inform, in writing within
38 10 days, the law enforcement agency with whom he or she last
39 registered of his or her new address. The law enforcement agency
40 shall, within three days after receipt of the information,

1 electronically forward it to the Department of Justice. The
2 Department of Justice shall forward appropriate registration data
3 to the law enforcement agency having local jurisdiction of the new
4 place of residence.

5 (h) Any person required to register under this section who
6 violates any of the provisions thereof is guilty of a misdemeanor.
7 Any person who has been convicted of a destructive device
8 violation and who is required to register under this section who
9 willfully violates any of the provisions thereof is guilty of a
10 misdemeanor and shall be sentenced to serve a term of not less
11 than 90 days nor more than one year in a county jail. In no event
12 does the court have the power to absolve a person who willfully
13 violates this section from the obligation of spending at least 90
14 days of confinement in a county jail and of completing probation
15 of at least one year.

16 (i) Whenever any person is released on parole or probation and
17 is required to register under this section but fails to do so within
18 the time prescribed, the Board of Parole Hearings or the Division
19 of Juvenile Justice, or the court, as the case may be, shall order
20 the parole or probation of that person revoked.

21 (j) The statements, photographs, and fingerprints required by
22 this section shall not be open to inspection by the public or by any
23 person other than a regularly employed peace officer or other law
24 enforcement officer.

25 (k) In any case in which a person who would be required to
26 register pursuant to this section is to be temporarily sent outside
27 the institution where he or she is confined on any assignment within
28 a city or county, including, but not limited to, firefighting or
29 disaster control, the local law enforcement agency having
30 jurisdiction over the place or places where that assignment shall
31 occur shall be notified within a reasonable time prior to removal
32 from the institution. This subdivision shall not apply to any person
33 temporarily released under guard from the institution where he or
34 she is confined.

35 (l) Nothing in this section shall be construed to conflict with
36 Section 1203.4 concerning termination of probation and release
37 from penalties and disabilities of probation.

38 A person required to register under this section may initiate a
39 proceeding under Chapter 3.5 (commencing with Section 4852.01)
40 of Title 6 of Part 3 and, upon obtaining a certificate of

1 rehabilitation, shall be relieved of any further duty to register under
2 this section. This certificate shall not relieve the petitioner of the
3 duty to register under this section for any offense subject to this
4 section of which he or she is convicted in the future.

5 Any person who is required to register under this section due to
6 a misdemeanor conviction shall be relieved of the requirement to
7 register if that person is granted relief pursuant to Section 1203.4.

8 SEC. 2. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution for certain
10 costs that may be incurred by a local agency or school district
11 because, in that regard, this act creates a new crime or infraction,
12 eliminates a crime or infraction, or changes the penalty for a crime
13 or infraction, within the meaning of Section 17556 of the
14 Government Code, or changes the definition of a crime within the
15 meaning of Section 6 of Article XIII B of the California
16 Constitution.

17 However, if the Commission on State Mandates determines that
18 this act contains other costs mandated by the state, reimbursement
19 to local agencies and school districts for those costs shall be made
20 pursuant to Part 7 (commencing with Section 17500) of Division
21 4 of Title 2 of the Government Code.